IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 497 of 2006

1. Smt. Ganga Devi W/o Late Ganga Prasad.
2. Naveen Chandra Arya S/o Late Ganga Prasad.
3. Bhupal S/o Late Ganga Prasad.
4. Kumari Sunita D/o Late Ganga Prasad.
   All R/o Village Udiyari, Post Hawalbag.
   Tehsil Almora,
   District Almora. …… Appellants

Versus

1. The New India Insurance Company Ltd.,
   through Branch Manager,
   Branch Office Almora,
   District Almora.
2. Sri Bache Singh S/o Indra Singh,
   R/o Village and Post Unura,
   Tehsil and District Almora,
   Owner of Vehicle No. UP01-4932. ……. Respondents

Mr. Pramod Belwal, Advocate for the appellants.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Pramod Belwal, the learned counsel for the appellants is heard on admission.

2. This is claimants' appeal for enhancement of the compensation awarded by Motor Accident Claims Tribunal / District Judge, Almora vide Award dated 31.07.2006 passed in M.A.C.T. No. 5 of 2006.

3. The claimants, who are unfortunate widow and minor children of deceased Ganga Prasad, claimant compensation of Rs. 14,70,000/- for his death in the motor accident on 05.02.2006 when the Jeep bearing registration No. UP01-4932, in which he was traveling, met with an accident due to rash and negligent driving of its driver resulting in the instantaneous death of Ganga Prasad on the spot itself.

The claimants further pleaded that deceased Ganga Prasad was getting salary of Rs. 6,504/- per month working as *Lohar* in Prachar and Prasar Kendra, Halwabag, District Almora.

4. The owner and insurer of the offending vehicle Jeep contested the claim. The owner disowned his liability to pay compensation to the claimants on the plea that the accident did not take place on account of the negligence of the driver, but it occurred due to some sudden technical failure. The insurer of the Jeep also disowned its liability to pay compensation to the claimants on the plea that the Jeep was being plied in breach of policy conditions.

5. The Tribunal, on the evidence led by the parties, held that deceased Ganga Prasad died on account of the injuries sustained by him in the motor accident on 05.02.2006; the accident occurred due to the rash and negligent driving of the driver of the offending vehicle Jeep; and the insurer of the Jeep was liable to pay compensation to the claimants.

6. Considering the evidence led by the claimants about the income of the deceased, the Tribunal assessed his income at Rs. 6,000/- per month and after deducting 1/3rd of the said amount as the personal expenses of the deceased, the claimants' dependency was assessed at Rs. 4,000/- per month and Rs. 48,000/- per annum. Considering the relevant factors, the Tribunal selected the multiplier of '12'. By multiplying the annual dependency of Rs. 48,000/- with the multiplier of 12, the compensation was worked out to Rs. 5,76,000/-. The Tribunal, further, awarded a sum of Rs. 2,000/- towards Funeral Expenses and Rs. 5,000/- towards Loss of Consortium. Thus, a total sum of Rs. 5,83,000/- was awarded as compensation to the claimants. The Tribunal further directed the Insurance Company to pay interest at the rate of 6% per annum on the amount of compensation from the date of the claim petition.

7. Mr. Pramod Belwal, the learned counsel for the appellants vehemently argued that the Tribunal has erred in assessing the income of the deceased at Rs. 6,000/- per month only; in selecting the lower multiplier of 12; and in awarding interest at the lower rate of 6% per annum.

8. From para 22 of the Award, we gather that though the salary certificate adduced by the claimants in evidence disclosed the gross salary of the deceased at Rs. 6,504/- per month, the Tribunal, after deducting certain allowances which were in the nature of personal allowances, assessed the income of the deceased at Rs. 6,000/- per month. In our considered view, the assessment of income of the deceased at Rs. 6,000/- per month by the Tribunal does not suffer from any infirmity whatsoever.

9. The multiplier of '12' selected by the Tribunal, too, cannot be found fault with in view for the dictum of the Apex Court in the case of **T.N. State Transport Corpn. Ltd. Vs. S. Rajapriya and others** reported in **(2005) 6 SCC 236,** wherein in the case of the deceased being 38 years of age, the Apex Court found the multiplier of '12' appropriate. In the present case, the deceased was aged about 40 years and as such, the selection of multiplier of '12' by the Tribunal does not suffer from any illegality.

10. The grant of interest at the rate of 6% per annum, in view of the prevalent rate of interest on the Fixed Deposit with a nationalized bank, cannot be said to be unreasonable.

11. Thus, we do not find any scope for enhancement of the compensation awarded by the Tribunal either on account of the

income of the deceased or the claimants' dependency assessed by the Tribunal or the multiplier selected.

12. The appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
22.08.2006 22.08.2006

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